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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,154	02/18/2004	Robert Grossman	GRORB:66408	5022

24201 7590 07/05/2006

FULWIDER PATTON  
6060 CENTER DRIVE  
10TH FLOOR  
LOS ANGELES, CA 90045

EXAMINER
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SOTELO, JESUS D

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 07/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/782,154

Applicant(s)

GROSSMAN, ROBERT

Examiner

Jesús D. Sotelo

Art Unit

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-8 and 10-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-8 and 10-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

### DETAILED ACTION

1. Claims 1, 3-8 and 10-12 are in the application. Claims 2 and 9 have been canceled.

#### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-8, and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buell (5,816,620) in view of keychains for boaters of the admitted prior art and Bishop (5,785,221).

Buell discloses a card secured to a keyring. The card is disclosed as being constructed from different materials including plastic or rubber. The card is disclosed as including imprinted information. The card includes a hole for engaging a keyring. The admitted prior art discloses a plurality of keyrings with different configurations for use by boaters. Most of these include a buoyant element, usually with imprinted indicia, secured to the keyring/keychain. Bishop discloses a card holder including a hole for securing a card to a retaining element. Bishop teaches providing a grommet on the retainer to improve the durability of the same.

In view of these disclosures, it would have been obvious to one skilled in the art to make the card of Buell from a buoyant material generally as taught by the admitted prior art of the boater keyrings, if the card is to be used in a water environment as in the case of

boaters. The use of close-cell buoyant material is well known in the art and the type of buoyant material used to make the cards would have been an obvious matter of design choice to one skilled in the art. Similarly, the number of cards included in the keyring would have been an obvious matter of choice. The use of a plurality of cards secured to a keyring is well known as it is common to carry several keyring grocery store and gasoline I. D. cards on such a keyring.

The use of grommets to reinforce holes in fragile planar material is well known in the art as evidenced by the teachings of Bishop. A plastic card is fragile and subject to failure. Although the use of grommets in cards might not be cost effective, the use of the same is not novel as evidenced by Bishop. The type of printed information on the card is dependant on the intended use of the card. For a boater's keyring, to provided marine information on the cards would have been an obvious matter of choice to one skilled in the art.

3. Claims 1, 3-8, and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Biggs et al (4,165,890) in view of the keyrings for boaters of the admitted prior art.

Biggs et al discloses a keyring and a plurality of information cards connected to the keyring. The admitted prior art discloses a plurality of keyrings with different configurations for use by boaters. Most of these include a buoyant element, usually with imprinted indicia, secured to the keyring/keychain. The cards include a reinforcement grommet 4 where the keyring is inserted.

In view of these disclosures, it would have been obvious to one skilled in the art to make the cards of Biggs et al from a buoyant material generally as taught by the admitted prior

art of keyrings for boaters, if the cards are to be used in a water environment as in the case of boaters. The use of close-cell buoyant material is well known in the art and the type of buoyant material would have been an obvious matter of design choice to one skilled in the art. The type of printed information on the card is dependant on the intended use of the card. Biggs et al provides information useful for tourists. For a boater's keyring, to provided marine information on the cards would have been an obvious matter of choice to one skilled in the art.

***Response to Arguments***

4. Applicant's arguments filed 4/24/06 have been fully considered but they are not persuasive.

5. The declaration by Mr. Robert Grossman attempting to provide evidence of commercial success has been carefully considered but is not deemed persuasive. The statements provided by Mr. Grossman fail to provide the clear nexus between applicant's claimed invention and the stated commercial success.

An affidavit or declaration attributing commercial success to a product or process "constructed according to the disclosure and claims of [the] patent application" or other equivalent language does not establish a nexus between the claimed invention and the commercial success because there is no evidence that the product or process which has been sold corresponds to the claimed invention, or that whatever commercial success may have occurred is attributable to the product or process defined by the claims. *Ex parte Standish*, 10 USPQ2d 1454, 1458 (Bd. Pat. App. & Inter. 1988).

Specifically, declarant has not established that whatever commercial success may have occurred is attributable to the product as defined by the claims.

6. The combination of references as stated above are deemed to meet the limitations of the claims.

*Conclusion*

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jesús D. Sotelo whose telephone number is 571-272-6686. The examiner can normally be reached on Mon. – Fri. 5:30 AM – 2:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Samuel J. Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
*Jesús D. Sotelo* 6/26/06  
Primary Examiner  
Art unit 3617  
KNX 03D69 ☺

jds  
June 26, 2006